

Commodity Futures Trading Commission

§ 1.73

its customers of any material incentives and any material conflicts of interest regarding the decision of a customer as to the trade execution and/or clearing of the derivatives transaction.

(f) *Records.* All records that a futures commission merchant or introducing broker is required to maintain pursuant to this regulation shall be maintained in accordance with Commission Regulation §1.31 and shall be made available promptly upon request to representatives of the Commission.

[77 FR 20198, Apr. 3, 2012]

§ 1.72 Restrictions on customer clearing arrangements.

No futures commission merchant providing clearing services to customers shall enter into an arrangement that:

(a) Discloses to the futures commission merchant or any swap dealer or major swap participant the identity of a customer's original executing counterparty;

(b) Limits the number of counterparties with whom a customer may enter into a trade;

(c) Restricts the size of the position a customer may take with any individual counterparty, apart from an overall limit for all positions held by the customer at the futures commission merchant;

(d) Impairs a customer's access to execution of a trade on terms that have a reasonable relationship to the best terms available; or

(e) Prevents compliance with the timeframes set forth in §1.74(b), §23.610(b), or §39.12(b)(7) of this chapter.

[77 FR 21306, Apr. 9, 2012]

§ 1.73 Clearing futures commission merchant risk management.

(a) Each futures commission merchant that is a clearing member of a derivatives clearing organization shall:

(1) Establish risk-based limits in the proprietary account and in each customer account based on position size, order size, margin requirements, or similar factors;

(2) Screen orders for compliance with the risk-based limits in accordance with the following:

(i) When a clearing futures commission merchant provides electronic market access or accepts orders for automated execution, it shall use automated means to screen orders for compliance with the limits;

(ii) When a clearing futures commission merchant accepts orders for non-automated execution, it shall establish and maintain systems of risk controls reasonably designed to ensure compliance with the limits;

(iii) When a clearing futures commission merchant accepts transactions that were executed bilaterally and then submitted for clearing, it shall establish and maintain systems of risk management controls reasonably designed to ensure compliance with the limits;

(iv) When a firm executes an order on behalf of a customer but gives it up to another firm for clearing,

(A) The clearing futures commission merchant shall establish risk-based limits for the customer, and enter into an agreement in advance with the executing firm that requires the executing firm to screen orders for compliance with those limits in accordance with paragraph (a)(2)(i) or (ii) as applicable; and

(B) The clearing futures commission merchant shall establish and maintain systems of risk management controls reasonably designed to ensure compliance with the limits.

(v) When an account manager bunches orders on behalf of multiple customers for execution as a block and post-trade allocation to individual accounts for clearing:

(A) The futures commission merchant that initially clears the block shall establish risk-based limits for the block account and screen the order in accordance with paragraph (a)(2)(i) or (ii) as applicable;

(B) The futures commission merchants that clear the allocated trades on behalf of customers shall establish risk-based limits for each customer and enter into an agreement in advance with the account manager that requires the account manager to screen orders for compliance with those limits; and

(C) The futures commission merchants that clear the allocated trades on behalf of customers shall establish